

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BLACKSTONE INTERNATIONAL, LTD.,
a Maryland corporation,

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION,
a Washington corporation,

Defendant.

CASE NO. 2:20-CV-00964-RSM

**STIPULATED MOTION TO LIFT
STAY AND ORDER LIFTING STAY**

**NOTE ON MOTION CALENDAR:
Monday, September 26, 2022**

STIPULATION

1. On June 22, 2020, plaintiff Blackstone International, Ltd. (“Blackstone”) filed its Complaint against defendant Costco Wholesale Corporation (“Costco”) in this Court. *See* Dkt. No. 1.

2. On October 29, 2020, Costco filed a Motion to Compel Arbitration and to Stay Proceeding. *See* Dkt. No. 12.

3. On January 15, 2021, the Parties’ filed a Stipulated Motion and [Proposed] Order Regarding Defendant’s Motion to Compel and to Stay Proceedings. *See* Dkt. No. 22. In the stipulation, the Parties agreed to “allow the Arbitrator in the AAA Arbitration Proceeding to determine arbitrability of the claims that Blackstone has asserted in this action, and [that] this

1 action will be stayed pending the Arbitrator’s determination of arbitrability of those claims.” *Id.*,
 2 at p.2, ¶4(a). The Parties also agreed that, “[i]f the Arbitrator determines that any of the claims
 3 asserted by Blackstone against Costco are not arbitrable, ***then the stay will be lifted in this action***
 4 ***with respect to such claims and such claims will proceed and be tried in this Court.***” *Id.* at p.3,
 5 ¶4(e)(emphasis added).

6 4. On January 19, 2021, the Court entered its Order Regarding Defendant’s Motion to
 7 Compel Arbitration and to Stay Proceedings. *See* Dkt. No. 23. The Order granted the Parties’
 8 stipulated motion, providing that, “[i]f the Arbitrator determines that any of the claims asserted by
 9 Blackstone against Costco are not arbitrable, ***then the stay will be lifted in this action with respect***
 10 ***to such claims and such claims will proceed and be tried in this Court.***” *Id.* at p.3, ¶4(e)(emphasis
 11 added).

12 5. On March 15, 2022, Blackstone filed a Notice Regarding Arbitrator’s Decision
 13 [Dkt. No. 26], which is attached as Attachment 1. As described in the Notice, the Arbitrator held
 14 that the claims asserted in this action “are not arbitrable.” *See* Attachment 1 at p.35, ¶2 of
 15 Appendix 1. Except for two claims asserted in the AAA Arbitration Proceeding, the Arbitrator
 16 also held that “[a]ll other claims asserted by Blackstone and Costco in [the AAA Arbitration
 17 Proceeding] are not arbitrable.” *Id.*

18 6. On April 4, 2022, the parties filed a Joint Report [Dkt. No. 27], which is attached
 19 as Attachment 2. As described in the Joint Report, “[t]he Parties previously stipulated, and this
 20 Court ordered, that ‘if the Arbitrator determines that any of the claims asserted by Blackstone
 21 against Costco are not arbitrable, then ***the stay will be lifted in this action*** with respect to such
 22 claims and such claims will proceed and be tried in this Court.’...Accordingly, the Parties
 23 respectfully request that the Court lift the stay in this action.” *See* Attachment 2 at p.2, ¶2
 24 (emphasis in original).

25 7. On July 1, 2022, Blackstone filed a Notice Regarding Arbitrator’s “Order Staying
 26 Arbitration” [Dkt. No. 28], which is attached as Attachment 3. As described in the Notice, the
 27 Arbitrator held that the arbitration of the two claims remaining in “arbitration ***shall be stayed*** until

(a) *the conclusion of proceedings in the related federal court case* [i.e., the above-captioned action pending in this Court] that bear upon the issues in this arbitration, or (b) further order of the Arbitrator for good cause shown.” See Attachment 3 at p.3 of Appendix A (emphasis added).

8. On September 16, 2022, the Arbitrator sent a letter to the Court, which is attached as Attachment 4. As described in the letter, the Arbitrator “determined a stay of the arbitration was appropriate because of what [he] perceived as a risk of inconsistent decisions if the arbitration proceeded, and because of the risk that decisions on the merits in the arbitration might be mooted by decisions that might be reached in the case pending before [the Court].” See Attachment 4 at p.2. The Arbitrator also noted that “the rationale for the stay in the federal case no longer exists” and “it would be appropriate to the lift that stay.” See Attachment 4 at p.2.¹

9. Counsel for the Parties have met and conferred in good faith regarding lifting the stay in this action. Accordingly, pursuant to the Parties’ stipulation, the Parties specifically agree as follows:

- (a) The stay in this action should be lifted, and the Parties respectfully request that the Court lift the stay;
- (b) The Parties agree to meet and confer in good faith concerning consolidation of the E2 Action following the Court’s decision on the pending motions in the E2 Action; and
- (c) The Parties also agree that, until such time as the pending motions in the E2 Action are decided by this Court, the Parties will work cooperatively and in good faith to coordinate discovery between this action and the E2 Action and utilize best efforts to minimize duplicative discovery as reasonably practical.

¹ In addition, as described in the Arbitrator’s letter, “there is a shared interest in the resolution of pending motions in another related case that is before [the Court]” (see Attachment 4 at p.2 n.1), which is captioned as *Blackstone International, Ltd. v. E2 Limited, et al.*, Case No. 2:20-cv-01686-RSM (the “E2 Action”).

1 **SO STIPULATED** this September 26, 2022.

2 By: /s/ Christopher M. Huck
3 Christopher M. Huck
4 (WSBA No. 34104)

5 **Goldfarb & Huck Roth Riojas, PLLC**
6 925 Fourth Avenue, Suite 3950
Seattle, WA 98104
Phone: 206-452-0260
Email: huck@goldfarb-huck.com

7 Attorneys for Plaintiff
Blackstone International Ltd.

By: /s/ Frederic G. Ludwig, III
Frederic G. Ludwig, III
(admitted pro hac vice)

Ludwig, APC
12463 Rancho Bernardo Road, No. 532
San Diego, CA 92128
Phone: 619-929-0873
Email: eric.ludwig@ludwigiplaw.com

Attorneys for Defendant
Costco Wholesale Corporation

ORDER

Pursuant to the above Stipulated Motion, **IT IS SO ORDERED**. The stay of this action is **LIFTED**.

DATED this 28th day of September, 2022.



RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically with the Clerk of the Court using the CM/ECF system on September 26, 2022 and was served via the Court's CM/ECF system on all counsel of record.

DATED this September 26, 2022.

/s/ Christopher M. Huck

Christopher M. Huck, WSBA No. 34104